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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/687,714

Filing Date: October 17, 2003

Appellant(s): BROWN, KYLE

Mark D. Simpson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 08/06/2008 appealing from the Office action mailed 12/06/2007.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2005/0010494	Mourad et al.	1-2005
7,107,225	McClung, III	9-2006
2002/0143655	Elston et al.	10-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mourad et al. (US 2005/0010494) in view of McClung, III (US 7,107,225).

Claim 1.

Mourad et al. (hereinafter Mourad) teaches a method for Internet e-commerce shopping guide comprising:

identifying said one or more commodities using one or more searchable identification parameters [0007], [0050];

monitoring a publicly-searchable, network-accessible databases for acquisition parameters for said one or more commodities using said one or more searchable identification parameters [0050]; and

outputting results of said monitoring step [0050].

Mourad does not explicitly teach that said publicly-searchable database includes a *plurality* of publicly-searchable databases.

McClung teaches monitoring *all vendors* of identified items (col. 1, line 54), thereby suggesting a “plurality” feature.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mourad to include that publicly-searchable database includes a *plurality* of publicly-searchable databases, as suggested in McClung, because it would advantageously allow to obtain the widest possible range of prices to find the lowest price.

Mourad also does not teach defining a monitoring duration during which acquisition parameters for said one or more commodities will be monitored.

McClung teaches a computer-implemented method for guaranteeing a consumer a best price on an item including monitoring all vendors of an item for a preset time period (col. 1, lines 37-39; col. 1, lines 54-55).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mourad to include defining a monitoring duration during

which acquisition parameters for said one or more commodities will be monitored, as disclosed in McClung, because it would advantageously allow a consumer the assurance that the consumer will not buy an item or service and then find out in the near future that the item or service was made available at a much lower price, as disclosed in McClung (col. 1, lines 22-25).

Claim 2. Mourad teaches said method, wherein said one or more publicly-searchable databases includes shop-bot sites [0050].

Claim 3. Mourad teaches defining an overall duration for conducting said monitoring step; and defining a refresh interval for said monitoring step [0052].

Claim 4. Mourad teaches said method further comprising the step of: identifying one or more alarm conditions; and wherein said monitoring step further comprises at least the step of identifying the occurrence of one or more of said alarm conditions [0050].

Claim 5. Mourad teaches said method wherein said outputting step comprises at least the steps of: sending an email to a user of said method upon the occurrence of one or more of said alarm conditions [0050].

Claim 6. Mourad teaches said method wherein said outputting step comprises at least the steps of: sending an electronic page to a user of said method upon the occurrence of one or more of said alarm conditions [0031].

Claim 8. Mourad teaches said method wherein one of said one or more alarm conditions comprises an acquisition parameter reaching a predefined minimum value [0050].

Claim 9. Mourad teaches said method wherein said acquisition parameter comprises a sale price [0042].

System claims 10-15, 17-18 repeat the subject matter of method claims 1-9 respectively, as a set of apparatus elements rather than a series of steps. As the underlying processes of claims 1-9 have been shown to be fully disclosed by the teachings of Mourad, and McClung in the above rejections of claims 1-9, it is readily apparent that the system disclosed by Mourad, and McClung includes the apparatus to perform these functions. As such, these limitations are rejected for the same reasons given above for method claims 1-9, and incorporated herein.

Claims 19-24, 26-27 are rejected on the same rationale as set forth above in Claims 1-9.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Mourad and McClung teachings, as applied to claim 1, and further in view of Elston et al. (hereinafter Elston) (US 2002/0143655).

The combination of Mourad and McClung teaches all the limitations of claim 7 except sending an instant message to a user of said method upon the occurrence of one or more of said alarm conditions.

Elston teaches a remote ordering system for mobile commerce wherein the notification can be sent by an instant message [0674].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mourad and McClung to include sending an instant message to a user of said method upon the occurrence of one or more of said alarm conditions, as disclosed in Elston, because it would advantageously allow to avoid any delays in delivering time sensitive information.

System claim 16 repeats the subject matter of method claim 7, as a set of apparatus elements rather than a series of steps. As the underlying processes of claim 7 have been shown to be fully disclosed by the teachings of Mourad, McClung and Elston in the above rejections of claim 7, it is readily apparent that the system disclosed by Mourad, McClung and Elston includes the apparatus to perform these functions. As such, these limitations are rejected for the same reasons given above for method claim 7, and incorporated herein.

Claim 25 is rejected on the same rationale as set forth above in Claim 7.

(10) Response to Argument

Applicant argues that Mourad, McClung and Elston fail to disclose monitoring a plurality of public databases to find a user selected commodity using one or more user selected acquisition parameters.

In response to this argument Examiner points out that Mourad discloses monitoring different retailers and alerting end user to the available inventory for a particular product [0054].

Since Mourad did not explicitly teach monitoring a plurality of public databases, McClung was applied to show said feature.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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